

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: QWEST CORPORATION	DOCKET NO. INU-03-4
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ORDER ASSESSING COSTS

(Issued March 22, 2004)

On July 2, 2003, Qwest Corporation (Qwest) filed a petition with the Utilities Board (Board) for determination of effective competition and deregulation pursuant to Iowa Code § 476.1D (2003). Qwest requested a determination that its existing retail local exchange services in 37 of its 124 Iowa exchanges are subject to effective competition and should be deregulated.

On August 7, 2003, the Board issued an order assigning a docket number to this proceeding and describing the criteria to be used in determining whether a service is subject to effective competition, pursuant to 199 IAC 5.6(1). At that time, the Board found that the petition did not provide sufficient data to support a *prima facie* finding of effective competition. On August 15, 2003, Qwest filed a supplement to its petition consisting of "a listing of the retail local exchange offerings of services and facilities and the rates thereof."

On September 26, 2003, the Board issued an order initiating a formal notice and comment proceeding regarding Qwest's petition, pursuant to Iowa Code § 476.1D and 199 IAC Chapter 5. As a part of that order, the Board required that

Qwest mail a copy of its petition and the Board's order to each carrier identified by Qwest as a competitor in one or more of the identified exchanges and to all interexchange carriers that purchased any access services in any of the identified exchanges within the past year.

Pursuant to the schedule established by the Board, statements of position were filed by MCI WorldCom, Inc. (MCI), the Consumer Advocate Division of the Department of Justice, Arnolds Park, Spirit Lake, Wahpeton, and Okoboji, Iowa, and the Iowa Telecommunications Association.

On December 18, 2003, Qwest asked the Board to allow Qwest to withdraw its petition for deregulation and to terminate further proceedings in this docket. On January 16, 2004, the Board granted Qwest's request and terminated this docket.

On January 26, 2004, MCI filed a motion requesting relief from any direct assessment for the proceedings in this docket. MCI states that it has invested a substantial amount of time and resources in litigating the issues in this docket, including hiring two outside consultants to address the issues to be considered. MCI also points out that it filed a resistance to the request to terminate this docket filed by Qwest.

MCI suggests that Qwest should be assessed for all costs of this docket under Iowa Code § 476.10. MCI argues that Qwest initiated the docket and is subject to direct assessment pursuant to the provisions of 199 IAC 17.2(1). MCI also points out that under subrule 17.4(3), the Board will not ordinarily assess a person that intervenes in a proceeding, if such intervention is in good faith and does not expand

the proceeding without contributing to the public interest.

No responses were filed to MCI's motion.

The Board will grant MCI's motion. Additionally, the Board finds that Qwest initiated the proceeding and caused the parties, including MCI, to expend a significant amount of time and resources in preparation for litigation. Qwest then chose not to pursue the question of effective competition for its services before the Board. Since Qwest chose to initiate this proceeding and then to withdraw it, the Board finds that all costs of this proceeding will be directly assessed to Qwest.

IT IS THEREFORE ORDERED:

1. The "Motion for Relief from Direct Assessment" filed by MCI WorldCom, Inc., on January 26, 2004, is granted.
2. All costs of Docket No. INU-03-4 will be directly assessed to Qwest Corporation.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 22nd day of March, 2004.